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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,325	06/14/2001	Frank J. DeGilio	POU920010067US1/I32-0001	7141

7590 09/09/2004

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EXAMINER

ENGLAND, DAVID E

ART UNIT PAPER NUMBER

2143

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/881,325	Applicant(s) DEGILIO ET AL.	
	Examiner David E. England	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06/14/2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/14/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1 – 20 are presented for examination.

#### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “data related to said request” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “response” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “said request includes a request that is in progress” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1 – 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

6. The limitation of, "data related to said request", in claims 1 and 11, is not found in the specification.

7. The limitation of, "error code", in claims 9 and 19, is not found in the specification. What is found in the specification is an "error message". The Examiner will assume this is what the Applicant is referring to until otherwise suggested so.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1 – 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. The term "ready" in claims 1, 2, 11 and 12, is a relative term which renders the claim indefinite. The term "ready" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. The specification does not disclose any terminology which would make it known as to what or how a client is designated as "ready".

11. It is unclear as to which part of the communication the "response" is referred to in claims 2, 4, 9, 10, 12, 14, 19 and 20. Applicant is asked to specifically point out which part in the specification and drawing the "response" is referring to.

12. Claims 3, 4, 13 and 14 recite the limitation "said static page". There is insufficient antecedent basis for this limitation in the claim. The limitation of a "static web page" is found in claims 1 and 11 and will be assumed to be the limitation the Applicant is referring to.

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13. Claims 5, 6, 15 and 16 stated "said request includes a request" and it is unclear as to if this is a typographical error or if the Applicant is suggesting that there is a request within a request. If it is the later, this is not found in the specification.

***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claims 1, 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Landsman et al. (6687737) (hereinafter Landsman).

16. As per claim 1, as closely interpreted by the Examiner, Landsman teaches a method for monitoring the presence of a client form a server via a communications network, comprising:

17. establishing a connection with said client via said communications network, wherein said server receives a request, (e.g. col. 3, lines 21 – 59);

18. transmitting a static web page to a web browser of said web client related to said request, (e.g. col. 3, line 50 – col. 4, line 34);

19. determining whether data related to said request is ready for transmission to said web client, (e.g. col. 3, line 50 – col. 4, line 34);

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20. transmitting said data to said client when said data is ready for transmission, (e.g. col. 11, lines 10 – 45); and

21. transmitting a byte stream to said web client, when said data is not ready for transmission, (e.g. col. 7, lines 24 – 60).

22. As per claim 3, as closely interpreted by the Examiner, Landsman teaches said static page is transmitted to a second browser window of said client, said second browser window being opened subsequent to said request, (e.g. col. 4, lines 50 – 64 & col. 5, line 53 – col. 6, line 15).

23. As per claim 4, as closely interpreted by the Examiner, Landsman teaches said static page includes a response message relating to said request, (e.g. col. 3, line 50 – col. 4, line 34 & col. 11, lines 10 – 45).

24. As per claim 5, as closely interpreted by the Examiner, Landsman teaches said request includes a request whereby said data requested by said client has been located, (e.g. col. 3, line 50 – col. 4, line 34 & col. 11, lines 10 – 45).

25. As per claim 6, as closely interpreted by the Examiner, Landsman teaches said request includes a request that is in progress, (e.g. col. 3, line 50 – col. 4, line 34 & col. 11, lines 10 – 45).



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26. As per claim 8, as closely interpreted by the Examiner, Landsman teaches said byte stream includes an advertisement, (e.g. col. 4, lines 50 – 64 & col. 5, line 53 – col. 6, line 15).

27. Claims 11, 13 – 16 and 18 are rejected for similar reasons as stated above.

***Claim Rejections - 35 USC § 103***

28. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

29. Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landsman (6687737) in view of Marsh et al. (5848397) (hereinafter Marsh).

30. As per claim 2, as closely interpreted by the Examiner, Landsman teaches if said response indicates said client is present:

31. waiting for a response from said client subsequent to said transmitting said byte stream, (e.g. col. 26, lines 25 – 65); and

32. determining whether said data related to said request is ready for transmission to said client, including:

33. transmitting said data to said client when said data is ready for transmission, (e.g. col. 11, lines 10 – 45);

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34. transmitting a byte stream to said client when said data is not ready for transmission, (e.g. col. 7, lines 24 – 60); but does not specifically teach if said response indicates said client is not present:

35. aborting said request.

36. Marsh teaches if said response indicates said client is not present:

37. aborting said request, (e.g. col. 13, lines 19 – 54). I would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Marsh with Landsman because aborting a request when a user is not present for the receipt of data will free up transmission bandwidth and will not waste processing time on the system.

38. Claim 12 is rejected for similar reasons as stated above.

39. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landsman (6687737) in view of Boucher et al. (6434620) (hereinafter Boucher).

40. As per claim 7, as closely interpreted by the Examiner, Landsman does not specifically teach said byte stream includes a null message. Boucher teaches said byte stream includes a null message, (e.g. col. 21, line 64 – col. 22, line 24). I would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Boucher with Landsman because sending a null message will make known to the system that the connection is in a stable and quiescent state.

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41. Claim 17 is rejected for similar reasons as stated above.

42. Claims 9, 10, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landsman (6687737) in view of Marsh (5848397) in further view of Boucher (6434620).

43. As per claim 9, as closely interpreted by the Examiner, Landsman and Marsh do not specifically teach said response includes an error code. Boucher teaches said response includes an error code, (e.g. col. 22, line 45 – col. 23, line 6). I would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Boucher with the combine system of Landsman and Marsh because utilizing error messages in a system ensures that all other messages are correctly received and the messages that were not correctly received are resent to the end system.

44. As per claim 10, as closely interpreted by the Examiner, Landsman teaches said response indicates that said client is present, (e.g. col. 4, lines 50 – 64 & col. 5, line 53 – col. 6, line 15).

45. Claims 19 and 20 are rejected for similar reasons as stated above.

### ***Conclusion***

46. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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47. a. Kalpio et al. U.S. Patent No. 6343323 discloses Resource retrieval over a source network determined by checking a header of the requested resource for access restrictions.
48. b. Philyaw U.S. Patent No. 6757715 discloses Bar code scanner and software interface interlock for performing encrypted handshaking and for disabling the scanner in case of handshaking operation failure.
49. c. Koeppel et al. U.S. Patent No. 6477575 discloses System and method for performing dynamic Web marketing and advertising.
50. d. Krisham et al. U.S. Patent No. 6442529 discloses Methods and apparatus for delivering targeted information and advertising over the internet.
51. e. Wodarz et al. U.S. Patent No. 5999912 discloses Dynamic advertising scheduling, display, and tracking.
52. f. Kolls U.S. Patent No. 6763336 discloses METHOD OF TRANSACTING AN ELECTRONIC MAIL, AN ELECTRONIC COMMERCE, AND AN ELECTRONIC BUSINESS TRANSACTION BY AN ELECTRONIC COMMERCE TERMINAL USING A WIRELESSLY NETWORKED PLURALITY OF PORTABLE DIGITAL DEVICES.
53. g. Virine et al. U.S. Patent No. 6604138 discloses System and method for providing demographically targeted information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 703-305-5333. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

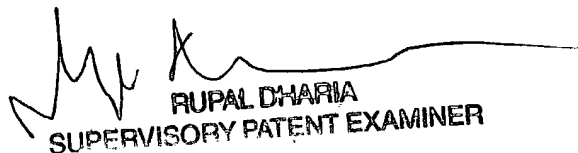
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David E. England  
Examiner  
Art Unit 2143

De



RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER